



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 09 2015

CERTIFIED MAIL 7014 2870 0000 3318 0363
RETURN RECEIPT REQUESTED

Mr. Brock K. Evans
Vice President, Assured Excavating, Inc.
6132 Edgerton Avenue
Orlando, Florida 32833

Re: Information Request Pursuant to Section 308
of the Clean Water Act, 33 U.S.C. § 1318
Bradford Creek Subdivision
National Pollutant Discharge Elimination System Permit No.: FLR10MU93

Dear Mr. Evans:

On March 25, 2015, the U.S. Environmental Protection Agency Region 4 conducted a Compliance Stormwater Evaluation Inspection (CSWEI) at the construction site known as Bradford Creek Subdivision, located at 420 Winter Garden – Vineland Road, Winter Garden, Orange County, Florida 34787 of which Assured Excavating, Inc. is the owner and/or operator. The purpose of the CSWEI was to evaluate Assured Excavating, Inc.'s compliance with the requirements of Sections 301 and 402(p) of the Clean Water Act (CWA), 33 U.S.C. §§ 1311 and 1342(p); the regulations promulgated thereunder at 40 C.F.R. § 122.26; and the State of Florida's February 2009 Generic Permit for Stormwater Discharge from Large and Small Construction Activities, with the identification number National Pollutant Discharge Elimination System (NPDES) Permit FLR10MU93.

The EPA is continuing to investigate Assured Excavating, Inc.'s compliance with the CWA. Therefore, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, the EPA hereby requests that Assured Excavating, Inc. provide the information set forth in Enclosure A within 15 calendar days of your receipt of this letter. Assured Excavating, Inc.'s response should be submitted to:

Mr. Michael Hom, Environmental Engineer
U.S. Environmental Protection Agency, Region 4
NPDES Permitting and Enforcement Branch
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

If Assured Excavating, Inc. believes that any of the requested information constitutes confidential business information, it may assert a confidentiality claim with respect to such information, except for effluent data. Further details, including how to make a business confidentiality claim, are found in Enclosure B.

All information submitted in response to this information request must be accompanied by the following certification that is signed by a duly authorized official in accordance with 40 C.F.R. § 122.22:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Failure to comply with this information request may result in enforcement proceedings under Section 309 of the CWA, 33 U.S.C. § 1319, which could result in the judicial imposition of civil or criminal penalties or the administrative imposition of civil penalties. In addition, there is potential criminal liability for the falsification of any response to the requested information.

Preserve, until further notice, all records (either written or electronic) which exist at the time of receipt of this letter that relate to any of the matters set forth in this letter. The term "records" shall be interpreted in the broadest sense to include information of every sort. The response to this information request shall include assurance that these record protection provisions were put in place, as required. No such records shall be disposed of until written authorization is received from the Chief of the NPDES Permitting and Enforcement Branch at the U.S. EPA, Region 4.

Enclosed is a document entitled *U.S. EPA Small Business Resources-Information Sheet* to assist you in understanding the compliance assistance resources and tools available to you. Any decision to seek compliance assistance at this time, however, does not relieve you of your obligation to the EPA nor does it create any new rights or defenses, and will not affect EPA's decision to pursue enforcement action. In addition, the Securities and Exchange Commission (SEC) requires its registrants to periodically disclose environmental legal proceedings in statements filed with the SEC. To assist you, the EPA has also enclosed a document entitled *Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings*.

If you have questions regarding this information request, please feel free to contact Mr. Hom at (404) 562-9748.

Sincerely,



Denisse D. Diaz, Chief
NPDES Permitting and Enforcement Branch
Water Protection Division

Enclosures

cc: Ms. Jessica Kleinfelter
Florida Department of Environmental Protection

ENCLOSURE A
REQUEST FOR INFORMATION PURSUANT TO SECTION 308

Instructions

1. Identify the person(s) responding to this Information Request.
2. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this Information Request.
3. Precede each answer with the text and the number of the question and its subpart to which the answer corresponds.
4. All documents submitted must contain a notation indicating the question and subpart of the question to which they are responsive.
5. In answering each Information Request, identify all documents and persons consulted, examined, or referred to in the preparation of each response and provide true and accurate copies of all such documents.
6. If information not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find at any time after the submission of its response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA thereof as soon as possible.
7. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Request to which it responds.
8. Where specific information has not been memorialized in a document, but is nonetheless responsive to a Request, you must respond to the Request with a written response.
9. If information responsive to this Information Request is not in your possession, custody or control, then identify the person from whom such information may be obtained.
10. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.
11. All documents provided in an electronic format should be compatible with .pdf.
12. All spreadsheet information should be in electronic format and compatible with MS Excel.
13. Information shall be provided for all companies, all subsidiaries, resources groups, or other corporate entities. Thus, the response to each question concerning the company's activities should reflect information regarding each and every entity.
14. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in the Clean Water Act or its implementing regulations, in which case the statutory or regulatory

definitions shall control.

15. Words in the masculine may be construed in the feminine if appropriate, and vice versa, and words in the singular may be construed in the plural if appropriate, and vice versa, in the context of a particular question or questions.
16. The terms “And” and “Or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed outside its scope.
17. The term “Identify” means, with respect to a natural person, to set forth the person’s name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
18. The term “Identify” means, with respect to a document, to provide its customary business description; its date; its number, if any (invoice or purchase order number); the identity of the author, addressee and/or recipient; and substance of the subject matter.
19. The term “Identify” means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
20. The term “Facility” means any company, entity, or corporation with an NPDES point source (including land or appurtenance thereto) that is subject to regulation under the NPDES program.
21. The term “You” and “Your” shall mean Assured Excavating, Inc., and/or any company, entity, or corporation that has directed work at the Site.
22. The term “NPDES” or “NPDES Permit” shall mean National Pollutant Discharge Elimination System permit or your state permit, FLR10MU93, issued pursuant to the Clean Water Act.
23. The term “Discharge” shall mean the addition of any pollutant to navigable waters; i.e., surface water sources ditches, or streams.
24. The term “Wetlands” shall mean those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
25. The term “Stormwater” means any runoff generated when precipitation from rain or snowmelt events flows over land or impervious surfaces and does not percolate into the ground.

Questions

1. Identify the entity and/or individual and the position title that has a current ownership interest in Assured Excavating, Inc. If incorporated, provide the name and mailing address of the registered agent for each state in which business is conducted.
2. Provide a site description identified as Bradford Creek Subdivision, located at 420 Winter Garden – Vineland Road, Winter Garden, Orange County, Florida 34787 (Site), as referenced in Part V.D.1 of the NPDES Permit.
3. Does the NPDES Permit (FLR10MU93) provide permit coverage for both the west and east side of the Bradford Creek Subdivision? If not, identify which side has permit coverage.
4. Identify who owns/owned the Site during all times that construction activities, as stated in 40 C.F.R. § 122.26(b)(14)(x), are/were occurring. If any transfer of ownership occurred after the start of the construction planning process, specify the owner(s) prior to and following the transfer, and the date of transfer. Provide the name and address of each owner specified.
5. Describe the contractual relationship between Assured Excavating, Inc. and the vertical construction builder, including responsibilities under the NPDES Permit.
6. Identify the operators of the Site during all times that construction activities are/were occurring. Provide the name and address of each operator specified.
7. Identify the developers of the Site during all times that construction activities are/were occurring. Provide the name and address of each developer specified.
8. Identify the contractors and subcontractors of the Site during all times that construction activities are/were occurring. Provide the name, address, and a brief description of the type of service provided of each contractor specified.
9. Provide the following information regarding the Site:
 - a. A copy of the Notice of Intent submitted to the Florida Department of Environmental Protection (FDEP) and the acknowledgement letter from FDEP.
 - b. A copy of the current Stormwater Pollution Prevention Plan (SWPPP). If a SWPPP was not developed, provide a detailed explanation of your reason(s) for not developing a SWPPP.
 - c. A copy of all certification statements for contractors and subcontractors as referenced in Part V.D.6 of the NPDES Permit.
 - d. A copy of a site map as referenced in Part V.D.1.e and V.D.1.f of the NPDES Permit, including, but not limited to the location of major structural and nonstructural controls, and the latitude and longitude of each discharge point and the name of the receiving water(s) for each discharge point.
 - e. A copy of all reports of inspections conducted from September 1, 2014 through May 1, 2015, as referenced in Part V.D.4.a through c.
 - f. A copy of all reports of stormwater inspections conducted by FDEP and by the local county from September 1, 2014 through May 1, 2015.
 - g. Provide the design specification and plans of the pond located at coordinates latitude 28°

32' 18.608" N, longitude 81° 35' 18.114" W. Indicate whether this is a sedimentation or retention/detention pond.

- h. Identify the purpose of a submerged flexible pipe in the nearby waterway, located at the approximate coordinates latitude 28° 32' 19.506" N, longitude 81° 35' 17.850" W.

10. Identify the person, title, company affiliation of your "qualified personnel", as defined in Part II.12 of the Permit.

ENCLOSURE B

RIGHT TO ASSERT BUSINESS CONFIDENTIALITY CLAIMS

(40 C.F.R. Part 2)

Except for effluent data, you may, if you desire, assert a business confidentiality claim as to any or all of the information that EPA is requesting from you. The EPA regulation relating to business confidentiality claims is found at 40 C.F.R. Part 2.

If you assert such a claim for the requested information, EPA will only disclose the information to the extent and under the procedures set out in the cited regulations. If no business confidentiality claim accompanies the information, EPA may make the information available to the public without any further notice to you.

40 C.F.R. §2.203(b). **Method and time of asserting business confidentiality claim.** A business which is submitting information to EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business, and may be submitted separately to facilitate identification and handling by EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.